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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/844,246	04/30/2001	Yves Louis Gabriel Audebert	741.01101	8917

45532 7590 05/20/2009

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EXAMINER	
LANIER, BENJAMIN E	

ART UNIT	PAPER NUMBER
2432	

MAIL DATE	DELIVERY MODE
05/20/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	09/844,246	AUDEBERT ET AL.	
	Examiner	Art Unit	
	BENJAMIN E. LANIER	2432	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *23 February 2009*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-7,9,10 and 15-42* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) *20-41* is/are allowed.

6)☒ Claim(s) *1,2,4-7,9,15-19 and 42* is/are rejected.

7)☒ Claim(s) *3 and 10* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *4/14/2009*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1. Applicant's amendment filed 23 February 2009 amends claims 1, 20, and 29. Applicant's amendment has been fully considered and entered.

Response to Arguments

2. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.,* 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

3. The Examiner would like to point out that the Applicant has failed to address the ***combined*** teachings as proposed in the Office Action mailed 22 August 2008. Instead, Applicant's arguments attack each reference individually by stating that each reference fails to teach claim limitations that were never identified as being taught by the reference.

4. In response to applicant's argument that the references fail to show certain features of Applicant's invention, it is noted that the features upon which applicant relies (i.e., an intermediate level of APDU encapsulation that is never described in the cited documents take apart or combined) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

5. Applicant's arguments with respect to the rejection of claims 20 and 29 have been fully considered and are persuasive. The previous rejections of claims 3, 10, and 20-41 have been withdrawn.

Terminal Disclaimer

6. The terminal disclaimer filed on 23 February 2009 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of U.S. Patent No. 7,162,631 has been reviewed and is accepted. The terminal disclaimer has been recorded.

7. The terminal disclaimer filed on 23 February 2009 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of U.S. Patent No. 7,363,486 has been reviewed and is accepted. The terminal disclaimer has been recorded.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

9. The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

10. Claims 1, 2, 4-7, 9, 15-17, 19, 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over DiGiorgio, U.S. Patent No. 6,385,729, in view of Graham, U.S. Patent No.

6,402,028, and further in view of Elgamal, U.S. Patent No. 5,657,390. Referring to claims 1, 42, DiGiorgio discloses a secure token device access system wherein a secure token device and a local computer system communicate via a token reader, and by passing data packages known as application protocol data units (APDUs) using the reader (Col. 1, line 63 – Col. 2, line 13 & Col. 9, lines 1-6), which meets the limitation of client communications means for transmitting and receiving message packets over said network using a packet based communications protocol, and for transmitting and receiving APDUs through said PSD interface. When a user attempts to access ISP services from the token device, the ISP issues a challenge to the token device to ensure that the user should be granted access to the ISP services (Col. 2, lines 16-23 & Col. 10, lines 24-33), which meets the limitation of a first client data processing section receiving incoming message packets from said remote computer system using said client communications means. Once the challenge is received at the token device, the token device issues a response to the ISP challenge in the form shown in Figure 8B (Col. 10, lines 33-35), which meets the limitation of second client data processing section receiving incoming APDUs from said PSD interface. DiGiorgio does not specify that the ISP services provide command instructions to the secure token device and visa versa. Graham discloses a system wherein smart cards and remote servers communicate through a host terminal by passing network packets from the smart card and the server that contain smart card commands instructions (i.e. APDUs) (Col. 22, line 51-Col. 23, line 20), which meets the limitation of separating APDUs from said incoming message packets thus generating APDUs and routing said APDUs to said PSD through said PSD Interface independently of the origin and integrity of said incoming message packets, incoming APDUs into outgoing message packets and routing said outgoing message packets to said remote

computer system through said client communications means. It would have been obvious to one of ordinary skill in the art at the time the invention was made for the secure token access system of DiGiorgio to provide network communication between the secure token device and the ISP server in the manner discussed in the Graham in order to provide multi-application secure token devices that are customizable and allow for unique variations of applications to be loaded onto the individual card post-issuance as taught by Graham (Col. 5, lines 7-18). DiGiorgio discloses that the local computer communicates with the remote computer using a web browser (Abstract) over the network. DiGiorgio does not disclose that the packets transmitted between the local computer and remote computer are encapsulated. However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to encapsulate the packets transmitted from the local computer to the remote computer in DiGiorgio using SSL in order to provide a security in communications over networks that is platform independent, that can work with many different types of applications that request a wide variety of different types of server applications, and which can be performed with minimal time and effort as taught by Elgamal (Col. 1, lines 11-19, 39-55).

Referring to claim 2, DiGiorgio discloses a secure token device access system wherein a secure token device and a local computer system communicate via a token reader, and by passing data packages known as application protocol data units (APDUs) using the reader (Col. 1, line 63 – Col. 2, line 13 & Col. 9, lines 1-6), which meets the limitation of at least one PSD comprising means for functionally connecting to said PSD interface and mans for functionally communicating through said interface, PSD communications means for transmitting and receiving APDU messages through said PSD interface. When a user attempts to access ISP

services from the token device, the ISP issues a challenge to the token device to ensure that the user should be granted access to the ISP services (Col. 2, lines 16-23 & Col. 10, lines 24-33), which meets the limitation of PSD processing means for interpreting said APDU messages, executing commands included in said APDU messages. Once the challenge is received at the token device, the token device issues a response to the ISP challenge in the form shown in Figure 8B (Col. 10, lines 33-35), which meets the limitation of transmitting responses in APDU format through said PSD interface using said communications means. The secure token device contains a unique ID that is encoded into the token device (Col. 10, lines 54-55), which meets the limitation of memory storage means for storing at least one unique identifier.

Referring to claim 4, DiGiorgio discloses that the network can be the Internet (Col. 1, lines 19-20), which meets the limitation of a public network.

Referring to claim 5, DiGiorgio discloses that the network can be a LAN (Col. 7, lines 28-29), which meets the limitation of a private network.

Referring to claim 6, DiGiorgio discloses that the communications protocol is the Internet Protocol (Col. 1, lines 38-39), which meets the limitation of an open communications protocol.

Referring to claim 7, DiGiorgio discloses that the communications can be encrypted (Col. 11, lines 21-25), which meets the limitation of a secure communications protocol.

Referring to claim 9, DiGiorgio discloses a secure token device access system wherein a secure token device and a local computer system communicate via a token reader, and by passing data packages known as application protocol data units (APDUs) using the reader (Col. 1, line 63 – Col. 2, line 13 & Col. 9, lines 1-6), which meets the limitation of PSD communications means for transmitting and receiving encrypted APDU messages through said PSD interface. When a

user attempts to access ISP services from the token device, the ISP issues a challenge to the token device to ensure that the user should be granted access to the ISP services (Col. 2, lines 16-23 & Col. 10, lines 24-33). The computer system utilizes Netscape Navigator, which includes SSL capabilities and would therefore enable two way encrypted communications (Col. 7, lines 44-47), which meets the limitation of first PSD processing means for decrypting incoming encrypted APDU messages using stored cryptographic information, thus generating incoming decrypted APDU messages, second PSD processing means for interpreting said incoming decrypted APDU messages, and executing commands included in said incoming decrypted APDU messages, third PSD processing means for encrypting outgoing APDU response messages using stored cryptographic information thus generating outgoing encrypted APDU response messages, and transmitting said outgoing encrypted APDU response messages in said APDU format through said PSD interface using said communications means, means for storing at least one cryptographic key. The secure token device contains a unique ID that is encoded into the token device (Col. 10, lines 54-55), which meets the limitation of memory storage means for storing at least one unique identifier.

Referring to claim 15, DiGiorgio discloses a secure token device access system wherein a secure token device and a local computer system communicate via a token reader, and by passing data packages known as application protocol data units (APDUs) using the reader (Col. 1, line 63 – Col. 2, line 13 & Col. 9, lines 1-6). Once the challenge is received at the token device, the token device issues a response to the ISP challenge in the form shown in Figure 8B (Col. 10, lines 33-35). The computer system utilizes Netscape Navigator, which includes SSL capabilities

and would therefore enable two way encrypted communications (Col. 7, lines 44-47), which meets the limitation of a hardwired network.

Referring to claims 16, 17, 19, DiGiorgio discloses that the network can be a cellular network (Col. 5, line 39), which meets the limitation of a digital cellular network and a wireless network.

11. Claim 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over over DiGiorgio, U.S. Patent No. 6,385,729, in view of Graham, U.S. Patent No. 6,402,028, in view of Elgamal, U.S. Patent No. 5,657,390 as applied to claim 1 above, and further in view of Brown, U.S. Patent No. 5,455,863. Referring to claim 18, DiGiorgio does not disclose that the network can be optical. Brown discloses a network authentication system wherein the network is wireline, optical fiber link, satellite, or any other type of communication channel (Col. 8, lines 56-58). It would have been obvious to one of ordinary skill in the art at the time the invention was made for the network of Chan to be optical because Brown discloses that those skilled in the art would understand that different networks can be used without departing from the spirit and scope of the invention (Col. 8, lines 48-55).

Allowable Subject Matter

12. Claims 20-41 are allowed.

Claims 3 and 10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

13. The following is a statement of reasons for the indication of allowable subject matter: The prior art does not disclose or make obvious a communications pipe establishment method

between a PSD and a remote computer system wherein a request, in a non-native protocol generated by an API level program, is generated to access said PSD from said remote computer system, converting the request, at the remote computer, into a PSD protocol data unit format message, encapsulating at the remote computer, the PSD protocol data unit format message into a packet based communication protocol producing an encapsulated request message, transmitting the encapsulated request message over the network to the client, processing the encapsulated request message to separate said PSD protocol data unit format message from said encapsulated request message, routing the PSD protocol data unit format message to the PSD interface, processing said PSD protocol data unit format message using the PSD, generating a response message in APDU format by said PSD and transmitting said APDU format response message to the client, encapsulating said APDU format response message into said packet based communication protocol producing an encapsulated response message, transmitting said encapsulated response message over said network to said remote computer, processing said encapsulated response message to separate said APDU response message from said encapsulated response message thus generating a desencapsulated APDU response message, and converting the desencapsulated APDU response message into a response in a non-native protocol and forwarding the response to at least one API level program.

Conclusion

14. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to BENJAMIN E. LANIER whose telephone number is (571)272-3805. The examiner can normally be reached on M-Th 7:00am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gilberto Barron can be reached on 571-272-3799. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Benjamin E Lanier/

Primary Examiner, Art Unit 2432